

State of California

87200



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement • • Statements of Economic Interest
(916) 322-5662 322-5660 322-5901 322-6441 322-6444

April 17, 1981

Alice C. Graff
Assistant City Attorney
22300 Foothill Blvd.
Hayward, CA 94541

A-81-04-097

Dear Ms. Graff:

Alice Hughes asked me to respond to your letter of March 31, 1981, which raises the issue of whether the members of the Hayward Board of Adjustment are planning commissioners within the meaning of Government Code Section 87200.^{1/} In your letter you point out that the duties of the Board of Adjustments correspond to the definition of a second planning commission contained in Section 65100. You conclude that a member of the Board of Adjustment, Thomas J. Martino, should file a Statement of Economic Interests with our agency pursuant to Sections 87200 et seq. which set forth disclosure requirements for planning commissioners.

I agree with your legal analysis and conclusion. Mr. Martino and other members of the Board of Adjustment are Article 2 filers and are required to file disclosure statements with this agency.

Thank you for calling these facts to our attention.

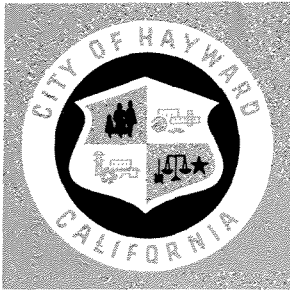
Very truly yours,

A handwritten signature in cursive script, appearing to read "Stella Connell Levy".

Stella Connell Levy
Counsel
Legal Division

SCL:kp

^{1/} All statutory references made are to the Government Code.



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CITY OF HAYWARD • OFFICE OF THE CITY ATTORNEY

March 31, 1981

APR 2 9 47 AM '81

Ms. Alice Hughes
Documents Examiner
State of California
Fair Political Practices Commission
P. O. Box 807
Sacramento, California 95804

Dear Ms. Hughes:

The City Clerk of the City of Hayward has forwarded to me your letter to her of March 26, 1981. In your letter to Ms. Weaver you noted that the statement of economic interest completed by Thomas J. Martino, a member of the Board of Adjustments of the City of Hayward, was being returned, apparently because of your determination that his position is not within those described by Government Code Section 87200.

I am writing to advise you that the City of Hayward considers members of its Board of Adjustments to be planning commissioners for the purpose of compliance with provisions of conflict of interest laws. Members of the City of Hayward's Board of Adjustments filed as planning commissioners under the Moscone Act and were subject to a local conflict of interest code with disclosure requirements identical to those applied to planning commissioners before the 1979 amendment to Government Code Section 87200.

The duties of the Board of Adjustments of the City of Hayward are set out in Section 10-1.572 of the Zoning Ordinance of the City of Hayward and include the following:

1. To hear and decide appeals concerning the interpretation or administration of the Zoning Ordinance;
2. To hear and decide referrals regarding the interpretation or administration of the Zoning Ordinance submitted by the Planning Director.

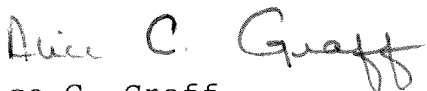
3. To hear and decide conditional use permit and variance applications;
4. To hear and decide appeals of administrative decisions with regard to administrative use permits and site plan reviews.

It is our opinion that these duties assigned to the Board of Adjustments fit precisely the definition of the "second" planning commission contained in Government Code Section 65100.

The City Clerk is presently retaining the disclosure statement of Mr. Martino and the statement of at least one other member of the Board of Adjustments until the City of Hayward is formally advised by the Commission that our determination that the Board of Adjustments is a planning commission is erroneous and that members of the Board are not governed by the provisions of Section 87200 of the Political Reform Act.

Very truly yours,

JOHN W. SCANLON
City Attorney

By 
Alice C. Graff
Assistant City Attorney

ACG:jp
cc: Ms. Paloma Weaver